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\viewkind4\uc1\pard\qc\f0\fs24 Before the \par

\b FEDERAL COMMUNICATIONS COMMISSION\b0\par

Washington, DC 20554\par

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\pard\qj\tx4680 In the Matter of\tab)\par

Implementation of Section 621(a)(1) of\tab)\par

the Cable Communications Policy Act of 1984\tab)\tab\tab MB Docket No. 05-311\par

as amended by the Cable Television Consumer\tab)\par

Protection and Competition Act of 1992\tab)\par

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\pard\qc\b COMMENTS OF COMMUNITY ACCESS TELEVISION INC.\b0\par

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\tab These Comments are filed by Community Access Television Inc., in support of the comments filed by the Alliance for Community Media (\ldblquote Alliance\rdblquote), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, Community Access Television Inc. believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access (\ldblquote PEG\rdblquote) services and their importance in our community. \par

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\pard\qc\ul\b Cable Franchising in Our Community\ulnone\par

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\ul\b Community Information\ulnone\par

\b0\tab The Quad Cities is a area of Eastern Iowa and Western Illinois, that includes over twenty communities, with a population of over 300,000. Each community has its own franchise agreement with the cable operator, Mediacom. Several Illinois communities (Moline, East Moline) have newer franchise agreements with Mediacom, while some Iowa communities last passed franchise agreements in the 1980's. The largest community in the Quad City area is Davenport, Iowa (pop. 98,000). Our franchised cable provider is Mediacom Cable. Communities in our area have negotiated

cable franchises since 1969. For the purpose of this correspondence, I will focus on Davenport, for they are in the refranchising process and have the most to lose from the passage of this legislation.

Our Current Franchise

The "current" franchise for Davenport expired in March of 2002. The local cable operator has been working under an extension of that agreement since that time. There have been some negotiations on a new agreement and a couple of drafts, but no new agreement is imminent at this time.

Davenport's franchise requires the cable operator to pay a franchise fee to the City in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Davenport's franchise requires the cable operator to provide channel capacity for public, educational, and governmental ("PEG") access channels on the cable system with additional channel capacity available when demand requires. We currently have 1 channel devoted to public access (a shared channel by the entire Quad City Mediacom system); 1 channel devoted to educational access; and 2 channels devoted to government access.

The Davenport franchise requires that our Public Access channel be supported by the cable operator maintainng a studio, which they may charge for using. A room with post-production equipment was opened and called 'a studio'. Due to the fees charged in the past, there was very little use of the studio. So the cable operator closed the facility. When the franchise renewal came up, the cable operator opened another room with editing equipment to the public for free, the tag on the door reads 'studio'. Since the public access producing community had become accustomed to working on home video equipment (VHS), there has again been little use of the new 'studio'.

The Davenport franchise does not provide any capital support for Public, Educational, or Government Access.

PEG Access Services

Community Access Television Inc., has provided access services in our community for 30 years. Unfortunately, Community Access Television Inc., operates outside of local franchise agreements and receives no financial support from any government entities or cable company. We are only able to supply public access users with basic equipment for production.

The Franchising Process

The cable system(s) serving our community also serves over twenty adjoining communities. In

2001 several communities on the Illinois side worked together to issue a cable franchise for AT&T, which was the cable company at the time. This allowed the company to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.\par

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\tab Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process - to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties. \par

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\tab While a franchise is negotiated by the local government as a contract, the process provides notice requirements for the public and the cable operator under state and local law. It is the only opportunity for citizen input, in regards to community needs and wishes. \par

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\ul\b Competitive Cable Systems\ulnone \par

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\pard\fi-360\li1080\qj\tx1080\tx1080\tab Our community \par

\f1\b7\tab\fi0 has never been approached by a competitive provider to provide service. \par

\f1\b7\tab\fi0 has not denied any provider the opportunity to serve in our community.\par

\f1\b7\tab\fi0 does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request. \par

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\ul\b Conclusions\ulnone\b0\par

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\tab This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.\par

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\pard\fi720\qj The local cable franchising process has functioned well in the Quad Cities and is an ongoing process. \par

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\pard\fi720\qj Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly

inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected. \par

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\pard\fi720\qj Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.\par

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\pard\fi720\qj Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest. \par

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\pard\fi720\qj Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users. \par

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\tab The Community Access Television Inc., therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

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\pard\fi720\qj\tab The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.\par

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\tab\tab The nation would be well served by a policy of \ldblquote Community Reinvestment\rdblquote through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:\par

\pard\fi-360\li720\qj\tx720 1.\tab Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community\rsquote s property;\par

\pard\fi-360\li720\qj 2.\tab Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;\par

3.\tab Mandating funding of five percent of gross revenues above and beyond any franchise fee to

local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,\par

4.\tab Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.\par

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\tab\tab\tab\tab\tab\tab\tab Respectfully submitted,\par

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\tab\tab\tab\tab\tab\tab\tab Community Access Television Inc., \par

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\tab\tab\tab\tab\tab\tab By: \tab Mike McGuire\par

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